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From: CN=Dave Kluesner/OU=R2/O=USEPA/C=US
Sent: Tue 7/22/2008 8:09:17 PM
Subject: Passaic River: Questions and Answers

Hi Mary Jo,

I am back in the office and have been coordinating on your request regarding the Passaic River cleanup. Below are answers to your questions. I realize that this probably includes far more details than you requested, but I thought it may be helpful as background. We are on for a 10:00 AM conference call tomorrow with Alan Steinberg in which you can get some quotes. I will conference Alan in from Puerto Rico. I will call you at 10:00 at 973-736-9402 or if not answering at that number, I will call 973-722-8509 (cell).

David

Q: What has happened since the EPA announcement of a cleanup at the Diamond Alkali Superfund site in downtown Newark?

A: Occidental, through Tierra Solutions, has been developing a work plan and schedule for completing Phase I of this cleanup (40,000 cubic yards). The work plan and schedule are due on July 23, thirty days from the effective date of the settlement agreement. The work plan will outline the engineering and cost analysis work necessary to support the cleanup.

EPA is continuing to work with the New Jersey Department of Environmental Protection (NJDEP) and other partner agencies to evaluate cleanup options for contaminated sediments of the lower eight miles of the river. The sediments of the lower eight miles have been identified as the major source of contamination to the rest of the river and Newark Bay.

EPA is continuing to work with the partner agencies to oversee the larger 17-mile study that is being conducted by a group of 73 companies. The first comprehensive sampling of the sediments in the entire 17 miles of the river is expected to begin within the next two weeks.

Q: Will Occidental have to apply for permits, from the Army Corps of Engineers, before undertaking this job? Have they done so? Realistically, when should we expect to see the work begin?

A: No. Under the law governing Superfund cleanups such as this one, permits are not required for work performed at a Superfund site. However, Occidental and Tierra Solutions will have to comply with the substance of the permits when doing the work. That is, even though Occidental and Tierra Solutions will not have to fill out the paperwork for permits, the requirements of federal and state permits that impact human health or the environment will still have to be met. EPA will work closely with the Army Corps of Engineers throughout the design and cleanup.

As specified in the Administrative Order on Consent, which is available on the Internet at www.ourpassaic.org or www.epa.gov/region2/passaicriver/, Phase I started with the signing of the agreement by EPA on June 23, 2008. The Phase 1 work is expected to be completed within two and a half years. A number of reports, analyses and other design work will have to be performed before you see any in-river work being done. The schedule that Occidental and Tierra Solutions are expected to submit on July 23 will provide more details on when each step of the work is expected to begin and end.

Q: The clean[up] addresses a very short portion of the river. Does Occidental remain liable for cleaning up elsewhere on the river? Has the EPA conducted scientific studies confirming that wastes from Lister Avenue have washed up- and-down river?

A: The agreement with Occidental is the first step toward cleaning up the rest of the Passaic River. Occidental is not being released from liability from any other aspect of site investigation or potential future cleanup work. The terms of the agreement with Occidental and Tierra are spelled out in an Administrative Order on Consent, which is available on the Internet at www.ourpassaic.org or www.epa.gov/region2/passaicriver/.

EPA has a separate agreement in place with a group of 73 companies that EPA has determined are potentially responsible for contaminating the river, for that group to conduct a comprehensive study of the 17-miles of the river from Dundee Dam to Newark Bay. Occidental is one of the 73 companies. That study will provide the basis for EPA to select a course of action for cleaning up the 17-miles of the river.

EPA is also proceeding with its fast-track evaluation of early actions that could be taken to address the sediments of the lower eight miles of the river, which have been identified as the major source of contamination to the rest of the river and Newark Bay.

As documented in all of the agreements that EPA has signed, there are scientific studies confirming that contaminants from 80-120 Lister Avenue have entered into the Passaic River.

Q: Some people who have been working closely with government agencies on the Passaic say they did not see June's announcement coming. What changed, within Occidental/Tierra and/or the EPA?

A: Occidental is one of many parties considered potentially responsible for the contamination of the river. Occidental, working with and through Tierra, offered to take action now and get the cleanup started. EPA and New Jersey have been evaluating taking an early action on the sediment of the lower eight miles of the Passaic. So when Occidental and Tierra came to us and offered to remove a significant amount of the most highly contaminated dioxin sediment, we saw that it would complement many of the early action alternatives that we are evaluating and would be consistent with any long-term remedy selected for the river. The agreement is a tangible sign of progress toward cleaning up the river.

EPA signed and announced the agreement on June 23, just two business days after it was signed by the companies on June 19, 2008. Prior to June 23, EPA was not in a position to inform outside parties about a potential settlement whose terms had not yet been agreed to.

Q: Since the announcement, has anyone expressed concern about the plan to cap toxic waste site, or asked about how the remainder would be transported away from the site?

A: EPA technical staff are aware of a small number of concerns and questions raised recently by some stakeholder groups over transportation methods, local impacts, and amount of contamination left in place. These types of concerns and questions are very common surrounding this type of cleanup work. EPA is committed to working closely with the public, stakeholder groups, elected officials and all parties to make sure the public is informed and has the opportunity to provide input, and that the project be carried out in a manner in which impacts to local communities are minimized.

Q: Does the EPA intend to collect natural resources damages from Occidental/Tierra?

A: EPA does not collect natural resource damages. The federal and state natural resource trustee

agencies have the responsibility for assessing natural resource damages. For the Passaic River, the trustee agencies are the U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration and NJDEP.

These agencies are EPA's partners in evaluating early action cleanup options and in the comprehensive 17-mile study. They are in the process of assessing natural resources damages for the entire 17-miles of the river and Newark Bay.

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